Official translation from Persian

Emblem

Islamic Republic of Iran

The Presidency

Ratification of the Cabinet Council


Ref.: H32656T/77219

Date: Aug. 7, 2007

In the session dated 29/7/2007, as per the proposal ref. 1/24936, dated 14/3/2005, put forward by the Ministry of Commerce and in light of the agreement of the member ministers in the Economic Council and in execution of the paragraph "H" of the article 33 of the Act of the 4th Program for Economic, Social and Cultural Development of the Islamic Republic of Iran, enacted in 2004, the Cabinet Council approved the protective, remedial and anti-dumping measures to protect domestic producers as follows:

1. In this ratification, terminologies are used in their common meanings:

A) Dumping: Arrival of goods in a country with the price less than its real value.

When we can say that a series of goods has entered the trade course of a country with the price less than its real value that the price of this series of goods while being exported from a country to Iran:

1) Is less than the comparable price for the identical goods in the natural course of trading designated to be used in the consuming country, and

2) In case of unavailability of such a domestic price, it is less than the highest comparable price for the identical goods to be exported to any third country in the natural course of trading, or is less
than cost of production of these goods in the country of origin plus the reasonable amount for administrative, sales costs and general costs as well as the profit.

B) Non-Market Economy: economy of any country with the record of concentrated planning discerned by the team as the subject of the paragraph 2 that market principles in the area of cost or price structures are not enforced in them in such a way that sales price does not reflect fair value of those goods in such a country.

In non-market economies, if domestic prices are determined to be non-real, the price of that commodity can be designated as the criterion for determining the ordinary value in at least one of the regional or global markets and or any other reasonable criterion.

C) Margin of Dumping: Difference between the export price and the ordinary one (as the states A and B).

D) Comparable Price: This means that prices are equal in terms of sales and delivery conditions, taxes and quantity and other conditions which affect comparability of the price. Thus, in order to compare them fair whenever necessary, appropriate adjustment shall be made to prices.

E) Commission: Any type of financial or non-financial aid and contribution or income or price support granted directly or indirectly by the government of the country of origin or exporter for production, exports or shipment of a commodity to exporters, or the relevant economic agencies or those engaged in productive activities.

F) Identical Commodity: A commodity with the similar features and composites and/or an alternative to the product in question.

G) Domestic Producers: Persons whose production resembles the foreign products. When the foreign producers are in connection with the foreign exporters or they themselves import the identical commodity, definition of the domestic producers can be limited to other producers.

H) Damage: Considerable damage to domestic producers.

I) Beneficiary Parties:

1) Domestic producers of the identical commodity or the government on their behalf;

2) The foreign government, foreign producers or exporters of the product under investigation or its importers.
2. A team comprising competent agents of the Ministries of Commerce, Foreign Affairs, Industry & Mine, Jihad Keshavarz, Cooperative & Customs of the I. R. of Iran, Iran Chamber of Commerce, Industry & Mine and the Cooperative Chamber shall be responsible for considering and determining existence of dumping, commission and the damage caused by them as well as determining necessary measures to be taken.

Note 1: Agent of the Ministry of Commerce shall, at the level of the deputy-minister, preside over the team, and the agents of other organs shall participate in the meeting as directors general.

Note 2: Secretariat of the said team shall be domiciled at Trade Promotion Organization of Iran.

Note 3: Expertise work shall be done by the relevant productive ministry whose report shall be handed over to the team in writing.

Note 4: Ministry of Commerce may, as the case requires, invite the agents of other organs and organizations and experts or agent of the producers of the product in question to take part in the session.

Note 5: The team may assign the investigations relating to different status of import products as the subject hereof to the Organization for Supporting Consumers & Producers. Resolutions on the amount of difference shall be made by the Economic Council.

Note 6: Resolutions of the team shall be enforceable once approved by the ministers as members in the committee set forth in article 1 of the Executive Bylaw of the Act of Imports & Exports Regulations.

3. Duties of the team as the subject of article 2 are as follows:

A. Receiving application for investigating domestic producers or any member;

B. Investigating documentation or evidence of the applicants and making resolutions on beginning or non-beginning of the investigation;

C. Applying for expertise from productive ministries and receiving the necessary reports on this case;

D. Preliminary determination in order to taking provisional steps against dumping;

E. Research and gathering information through questionnaires, sampling, hearing comments and the like;

F. Referring the investigations relating to the different status to the organization for Supporting Consumers & Producers;

G. Determining special conditions;
H. Suggesting condonable amounts to the committee of article 1 of the executive bylaw of the Act of Imports & Exports Regulations;

I. Receiving price commitments and monthly report in fulfilling these commitments;

J. Making suggestion on provisional steps and final steps against dumping, commission and anti-protective measures and setting deadlines for their review and extension;

K. Writing instructions for determining indices and necessary standards for discerning rise in imports and incurring of serious damage to producers and suggesting them to the committee of article 1 of the executive bylaw of the Act of Imports & Exports Regulations;

4. Process of researching and investigating is as follows:

A. Application for investigating the team upon proposal of any member or at the written request of the domestic producers shall be submitted to the team’s secretariat.

B. The application shall be consisted of accessible documents of the applicant on the existence of dumping or commission or that of the damage caused by any of them.

C. The team shall consider the documents presented within 20 days at most after receiving the application and make decision on beginning or non-beginning of the investigation.

D. The team’s secretariat may gather information through questionnaires, sampling, hearing comments and the like.

E. In order to reply to the questionnaires sent to exporters or foreign producers or importers of the product claimed to be dumped or to be of commission, 30 days’ worth of time shall be granted. This time can be at most extended once, and the duration of extension shall be determined by the team.

F. During the investigation, the domestic beneficiary party shall provide the team with the necessary, genuine information. Otherwise, it shall be determined on the basis of the best information available, including the information set forth in the preliminary application.

G. The team may, as the case requires, in order to investigating the information offered or to acquire more details, carry out research along the domain of the country by notifying the government of the exporting country.

H. The team determines dumping or commission or existence of damage caused by any of them on the basis of the investigations carried out and, in case the determination is positive, shall do research on the margin of dumping, amount of commission, and amount of the damage incurred, and shall declare the final decision at
most within 3 months from the beginning of the investigation. In special conditions, this time can be renewed for three more months.

I. In the process of research for determining the damage, the following points shall be taken into consideration:

1) Volume of cheap or commissioned imports and remarkable increase in the exports in absolute form or viz-a-viz domestic production or consumption and its future probable rise in it;

2) Amount of dumping or commission and the effect of cheap or commissioned imports on the price of the identical products in the domestic market;

3) Subsequent effect of the said imports on the domestic producers of such products;

4) Effect of the said imports on the economic indices and factors effective in the status of domestic producer, including potential and de facto reduction in sales, production, utilizing the capacity, occupation, wages, growth, ability to raise the capital or investment and capability of exports;

5) Other factors which can result in incurring of damage to domestic producers.

- Note: Condonable amounts shall be proposed by the team and approved by the committee as subject of article 1 of the executive bylaw of the Act of Imports & Exports Regulations.

5. The team may, regarding dumping, stop or suspend the investigation by receiving commitments from the exporting party on the review of prices or cessation of cheap imports to Iran. As to commission, if the exporter undertakes to revise export prices or the government of the exporting country undertakes to cease or limit the payment of commission or take steps regarding effects thereof, the team may, while agreeing to the said commitments, stop or suspend the investigation.

Note: The team may ask the party whose commitments have been accepted to provide some information concerning fulfillment of these commitments every month and assess it. In this regard, non-provision of the information and not making the facilities for assessment thereof shall be deemed as breach of commitment. In cases wherein commitments are breached, the team may take provisional or finalized steps on the basis of available facts.

6. In case the preliminary determination by the team regarding existence of dumping or commission or the damage caused by them to the domestic producers is positive, provisional steps can be taken as follows regarding the relevant imports.
A. In the form of the special commercial profit and/or receiving the difference, minimum equivalent of the dumping or amount of commission shall be proposed to the Organization for Supporting Consumers & Producers.

B. Provisional steps shall be taken for a three-month period.

7. In case in results of the investigation, final determination indicates existence of cheap imports or commissioned ones and the damage caused by them, final anti-dumping or remedial (anti-commission) measures shall be determined equal to minimum margin of dumping or amount of commission by the ministers member in the committee as the subject of the article 1 of the executive bylaw of the Act of Imports & Exports Regulations. If provisional steps are being taken at the time of taking final steps, these measures shall be replaced by the final ones. Remedial and anti-dumping measures which have been laid down shall be taken in the form of special commercial profit and receiving the difference and payment of commission to the domestic producer on the basis of the margin of dumping or amount of commission. These measures shall be taken as long as they are essential for tackling damages caused by cheap or commissioned imports.

Note 1: Elongation of duration of taking steps more than five years shall necessitate review and further research.

Note 2: If it is determined that, for neutralizing or enfeebling the effect of final steps against dumping or commission (anti-remedial steps), goods covered by such steps are imported through a third country, ministers member in the committee as the subject of the executive bylaw of the Act of Imports & Exports Regulations may apply this step to the third country to tackle evading the measures to be taken.

8. Protective measures are as follows:

A. If rise in the imports of a commodity, including its increase viz-a-viz the domestic production, leads to serious damage or risk of its emergence for the domestic producers of the identical commodity or the commodity which is in direct competition with the imports product, protective measures to protect domestic producers of the identical commodity or the direct competitive product shall be taken.

B. Protective measures shall be taken in the form of special commercial profit and the like and/or quantitative limitations on the imports of the desirable product.

C. Protective measures shall be taken in a non-discriminating fashion except in special conditions of the non-market economies.
D. In the status of quotas, level of imports realized in the last three year period shall be the criterion unless more limitation is sufficiently justifiable. At the same time, quota for different countries might be allotted in proportion to the previous portion of imports of each by considering other effective factors. But if one or more countries show unsuitable growth, imposing of quotas can be limited to those countries.

E. Protective measures shall be taken after the investigation. In these investigations, it shall become evident that absolute rise (increase in imports vis-a-vis the previous period or year) or relative rise in imports of a commodity has caused considerable damage to domestic producers of the identical commodity or direct competitive product thereof. Procedures of research on this case shall be similar to general procedures relating to anti-dumping and remedial measures, excluding their special cases (e.g. questionnaires) and shall be taken by the said team. Under special circumstance when delay in action causes damages whose compensation is difficult, provisional steps can be taken on the basis of the preliminary determination of the team before the investigation. Such measures shall not exceed 200 days. Final protective measures shall be taken as long as they are necessary for prevention or compensation of damage, and they shall not exceed 4 years including period of provisional action unless it is proved that more action is required to be taken for preventing or compensation of serious damage. Long-term protective measures (more than one year) taken to modify the status of domestic producers can be shortened. Continuous protective measures shall not anyway exceed 10 years. Protective measures, vis-a-vis imports from developing countries whose portion of imports is less than 3 per cent shall be condonable unless such countries shall have at least 9% of the imports in toto.

F. Instruction for determining indices and necessary standards for increasing imports and incurring of serious damage to the producers shall be provided by the said team and approved by the ministers member in the committee as the subject of the article 1 of the executive bylaw of the Act of Imports & Exports Regulations.

Signed and sealed by:

Vice President

Cc: Offices of the Supreme Leader; Presidency; Chief of the Judiciary; Vice-president; Executive Deputy; Deputy for Legal & Parliamentary Affairs of the President; Chief of the Expediency Council; National Audit Office; Administrative Justice Tribunal; Dept. General of Rules of the Islamic Consultative Assembly; State Inspection; Legal Dept. General; Dept. General of State Rules & Regulations; all ministries; organizations, institutions and institutes of the Islamic Revolution; Gazette; Secretariat of the Council of Government's Information, and the Board of Government.